

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JIM DESMOND,

CIVIL DIVISION

Plaintiff,

No: 2:09-CV-00034

vs.

THE HONORABLE GARY L.
LANCASTER

PHILLIPS & COHEN ASSOCIATES, LTD.

JURY TRIAL DEMANDED

Defendant.

ELECTRONICALLY FILED

RESPONSE TO MOTION TO OPEN DISCOVERY

AND NOW, comes Defendant, Phillips & Cohen Associates, Ltd., by and through its counsel, MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN and DANIELLE M. VUGRINOVICH, ESQUIRE, and files the within Response to Motion to Open Discovery as follows:

In his Motion to Open Discovery, Plaintiff requests that the following individuals be deposed: Robert Obringer as a Rule 30(b)(6) representative (re-deposed), the mail room clerks from January 2008 through July 2008, the mail room clerk supervisor, and Cindy Thompson, the auditor. He requests a fishing expedition to delve into the process and procedure regarding the receipt and acknowledgement of cease and desist letters which was discussed not only during Mr. Obringer's deposition, but also during the depositions of Ms. Lohr, the collector on the file, and Mr. Romaninsky, Ms. Lohr's Supervisor. Plaintiff's further discovery requests are cumulative and patently unreasonable. If this case proceeds to any stage in which fees are at issue, the fees and costs associated with the extended discovery should not be compensable. *See, Evans v. Port Authority of N.Y. & N.J.*, 273 F.3d 346 (3d. Cir. 2001). In an effort to work together to resolve the issue, Defendant will produce only the above listed individuals for deposition and only produce the documents requested at the Obringer deposition to the extent

that they exist for the relevant time period. However, it contests the reasonableness and the necessity of these additional depositions.

Additionally, Defendant requests that discovery close on January 31, 2010 due to the difficulty in scheduling depositions for the remainder of December 2009.

Respectfully submitted,

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN

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